

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Establish
Policies and Cost Recovery Mechanisms for
Generation Procurement and Renewable
Resource Development.

Rulemaking 01-10-024
(Filed October 25, 2001)

**OPINION GRANTING INTERVENOR COMPENSATION
TO THE UTILITY REFORM NETWORK AND THE
NATURAL RESOURCES DEFENSE COUNCIL**

This decision awards intervenor compensation to The Utility Reform Network (TURN) and the Natural Resources Defense Council (NRDC) for their work in the electric procurement proceeding. We award \$285,191.30 to TURN for its contribution to Decisions (D.) 04-01-050, D.03-12-065, D.03-12-062 and D.03-10-058, and to Resolutions E-3814 and E-3853, and for TURN's participation in utility procurement review groups (PRGs). \$37,065.00 to NRDC for its contribution to D.04-01-050, D.03-12-062, D.03-06-071, D.03-06-067, and D.02-10-062, and for its participation in PRGs.

I. Background

The Commission opened this rulemaking to establish the necessary operating procedures and ratemaking mechanisms for California's three largest investor owned utilities, Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (SCE), to resume full procurement responsibilities by January 1, 2003. In a series

of decisions and resolutions, we allocated the existing Department of Water Resources' contracts to each utility, established requirements and procedures for the procurement of renewable resources, established cost recovery mechanisms, adopted short-term procurement plans for each utility for 2003 and 2004, approved individual procurement contracts, and adopted the long-term regulatory framework under which each utility will plan for and procure the energy resources and demand-side investments necessary to ensure its customers receive reliable service at low and stable prices.

In April 2004, the Commission opened a new Rulemaking (R.) 04-04-003 to carry forward procurement planning. This older rulemaking remains open only to consider the requested intervenor compensation and outstanding petitions to modify prior decisions. Following is a brief summary of the decisions and resolutions for which TURN and/or NRDC seek intervenor compensation.

The Commission first provided the utilities interim procurement authority in D.02-08-071, where it adopted an interim procedure for procurement contracts to be approved through the advice letter process. Resolution E-3814, issued on December 4, 2003, approved, with modifications, a SCE renewable energy contract for a 5 megawatt (MW) photovoltaic project to be built by TrueSolar. In Resolution E-3853, issued on October 16, 2003, the Commission approved several PG&E renewable energy contracts resulting from bilateral negotiations.

D.02-10-062 adopted standards for short-term procurement plans, cost-recovery mechanisms, renewable resources development guidelines, and utility procurement operations; we also identified here specific long-term procurement planning issues to be addressed in further hearings, and we found that participation in the procurement review process by parties eligible for intervenor

compensation should be fully compensated. In D.02-12-074, the Commission approved 2003 short-term procurement plans for each utility based on the

criteria adopted in D.02-10-062, modified and clarified the cost recovery mechanisms and standards of behavior, and provided further guidance on long-term planning processes. In D.03-06-067, the Commission partially granted a February 3, 2002 SCE petition to modify D.02-12-074.

The Commission addressed the implementation issues of a Renewable Portfolio Standard (RPS) under the requirements of Senate Bill (SB) 1078 and SB 1038 in D.03-06-071; we also directed that a new docket be opened to continue with implementation requirements. Applications for rehearing of this decision by SCE and PG&E were addressed in D.03-12-065.

A September 10, 2003, motion by SCE seeking interim authority to hedge natural gas price risk for its Qualifying Facilities (QFs) during 2004 was partially granted in D.03-10-058.

After a year-long comprehensive proceeding, the Commission adopted 2004 short-term procurement plans for each utility and decided procurement issues that needed to be resolved prior to January 1, 2004 (see D.03-12-062) and then adopted a long-term regulatory framework for the utilities (see D.04-01-050).

II. Requirements for Awards of Compensation

The intervenor compensation program, enacted in Pub. Util. Code §§ 1801-1812, requires California jurisdictional utilities to pay the reasonable costs of an intervenor's participation if the intervenor makes a substantial contribution to the Commission's proceedings. The statute provides that the utility may adjust its rates to collect the amount awarded from its ratepayers. (Subsequent statutory references are to the Public Utilities Code unless otherwise indicated.)

All of the following procedures and criteria must be satisfied for an intervenor to obtain a compensation award:

1. The intervenor must satisfy certain procedural requirements including the filing of a sufficient notice of intent (NOI) to claim compensation within 30 days of the prehearing conference (or in special circumstances, at other appropriate times that we specify). (§ 1804(a).)
2. The intervenor must be a customer or a participant representing consumers, customers, or subscribers of a utility subject to our jurisdiction. (§ 1802(b).)
3. The intervenor should file and serve a request for a compensation award within 60 days of our final order or decision in a hearing or proceeding. (§ 1804(c).)
4. The intervenor must demonstrate “significant financial hardship.” (§§ 1802(g), 1804(b)(1).)
5. The intervenor’s presentation must have made a “substantial contribution” to the proceeding, through the adoption, in whole or in part, of the intervenor’s contention or recommendations by a Commission order or decision. (§§ 1802(h), 1803(a).)
6. The claimed fees and costs are comparable to the market rates paid to experts and advocates having comparable training and experience and offering similar services. (§ 1806.)

For discussion here, the procedural issues in Items 1-4 above are combined, followed by separate discussions on Items 5-6. We separately address TURN’s and NRDC’s substantial contributions and the reasonableness of their requests.

III. Procedural Issues

Several prehearing conferences in this proceeding were held, the first on January 8, 2002. TURN timely filed its NOI on February 5, 2002, and NRDC timely filed on February 7, 2002. On May 28, 2002, Administrative Law Judge (ALJ) Christine M. Walwyn issued a ruling that found TURN and NRDC to both be customers under the Public Utilities Code. TURN and NRDC filed their requests for compensation on March 26, 2004, within 60 days of D.04-01-050 being issued. In their NOIs, TURN and NRDC asserted financial hardship and in the May 28, 2002 Ruling the ALJ ruled that both parties met the significant financial hardship condition.

TURN and NRDC have satisfied all the procedural requirements necessary to make their requests for compensation.

IV. Substantial Contribution

In evaluating whether a customer made a substantial contribution to a proceeding we look at several things. First, did the ALJ or Commission adopt one or more of the factual or legal contentions, or specific policy or procedural recommendations put forward by the customer? (See § 1802(h).) Second, if the customer's contentions or recommendations paralleled those of another party, did the customer's participation materially supplement, complement, or contribute to the presentation of the other party that assisted the Commission in making its decision? (See §§ 1802(h) and 1802.5.) As described in §1802(h), the assessment of whether the customer made a substantial contribution requires the exercise of judgment.

In assessing whether the customer meets this standard, the Commission typically reviews the record, composed in part of pleadings of the customer and, in litigated matters, the hearing

transcripts, and compares it to the findings, conclusions, and orders in the decision to which the customer asserts it contributed. It is then a matter of judgment as to whether the customer's presentation substantially assisted the Commission.¹

Even where the Commission does not adopt any of the customer's recommendations, compensation may be awarded if, in the judgment of the Commission, the customer's participation substantially contributed to the decision or order. For example, if a customer provided a unique perspective that enriched the Commission's deliberations and the record, the Commission could find that the customer made a substantial contribution. With this guidance in mind, we separately turn to the claimed contributions TURN and NRDC made to the proceeding. We first address TURN's request, as it is larger and more comprehensive.

A. TURN's Substantial Contribution

TURN's request covers work performed in R.01-10-024, as reflected in two major decisions on utility procurement plans, one decision denying rehearing of SB 1078 implementation rules, one decision approving SCE's request for interim gas hedging authority, and two resolutions related to renewable procurement contracts by SCE and PG&E. Additionally, TURN seeks compensation for time devoted to the PRGs of all three investor-owned utilities.

The bulk of TURN's request seeks compensation for work performed on issues covered on the long-term and short-term procurement plans filed by the utilities in early 2003. The two Commission decisions on these plans, D.03-12-062 addressing issues needing to be resolved prior to January 1, 2004 and D.04-01-050

¹ D.98-04-059, 79 CPUC2d, 628 at 653.

addressing the longer term issues, are based on the same evidentiary record and were scheduled to be resolved in a single decision. TURN cites the following contributions it made to these two decisions:

- D.03-12-062 adopted TURN's position on risk management standards and a 99th percentile portfolio risk reporting standard.
- D.03-12-062 endorsed TURN's proposal to reauthorize the PRGs for 2004, citing arguments contained in TURN's brief.
- The testimony of TURN witness Kevin Woodruff on resource adequacy issues led PG&E and other utilities to contact TURN to try and develop a set of common principles based on Woodruff's recommendations. From this, TURN, the Office of Ratepayer Advocates (ORA), the California Energy Commission (CEC), and the three utilities sponsored a comprehensive Joint Recommendation. D.04-01-050 adopted the major portions of the Joint Recommendation, including an equivalent target reserve margin level and timetable, a plan to resubmit long-term procurement plans in mid-2004 after workshops on resource adequacy are completed, and a policy that any new long-term resource commitments brought to the Commission prior to the adoption of final plans should meet the "no regrets" criteria proposed by the CEC.
- D.04-01-050 agreed with TURN and other parties that the Commission possesses sufficient jurisdictional authority to impose resource adequacy requirements on Electric Service Providers (ESPs) and Community Choice Aggregators. The proposed decision would also have adopted TURN's proposal to have the utilities procure reserves on behalf of the ESPs. The final decision adopted TURN's position that the Commission, not the Independent System Operator (ISO), should have primary responsibility for developing resource adequacy requirements applicable to all load serving entities under its jurisdiction.

- D.04-01-050 agreed with TURN and other parties that the risks inherent in allowing utilities to buy power from their own affiliates justifies a permanent extension of the affiliate transaction procurement ban.
- D.04-01-050 adopted TURN's proposal to use a ten-year planning horizon, agreed with TURN's concerns regarding the problems with forecasted gas prices, adopted TURN's position that the utilities should incorporate expected savings from energy efficiency programs conducted by third party providers into the demand forecasts of their plans, agreed with TURN that there was an inadequate record on which to approve any incentive mechanism for either supply or demand side procurement options, and validated TURN's support for the California Power Authority's Peaker Initiative by directing the utilities to consider these resources and enter into good-faith negotiations for CPA peakers to the extent reasonable.

We find that TURN participated actively in all phases of the comprehensive hearings leading to D.03-12-062 and D.04-01-050, and that it made a substantial contribution to the decisions in numerous important areas, as discussed above. On issues where TURN was one of several sponsors, it individually made a substantial contribution to our adoption of the policy by providing unique supporting analysis that supplemented, complemented or contributed to the showings of other parties. In areas where we did not adopt TURN's position, our decision-making benefited substantially from TURN's analysis and discussion.

In addition to TURN's participation in the hearing process, its contribution to the two decisions also includes (1) its involvement in incentive mechanism workshops held early in 2003, (2) its comments on PG&E's Advice Letter 2427, which was withdrawn following issuance of D.03-12-062, and (3) its contribution

on confidentiality issues, as reflected in the development of the protective orders used in this proceeding and in its attendance and testimony before the Senate Energy Committee oversight hearings convened to address the pending proposed and alternate decisions.

TURN also requests compensation for its contribution to D.03-10-058, D.03-12-065, and Resolutions E-3814 and E-3853. D.03-10-058 addressed an SCE motion for Qualifying Facilities gas hedging authority. TURN states it filed a response expressing conditional support but raising concerns and recommending that SCE be required to share relevant details of its strategy with its PRG. The Commission adopted TURN's recommendation in its decision.

In D.03-12-065, the Commission addressed applications for rehearing of D.03-06-071 filed by SCE and PG&E. TURN argued in defense of the original Commission decision and urged a rejection of the applications. The Commission denied the applications for rehearing and supported the positions taken by TURN in its response.

Resolution E-3814 addressed a renewable energy Purchase Power Agreement (PPA) filed by SCE. TURN and NRDC submitted a joint protest to SCE's request, urging the Commission to reject the proposed PPA with TrueSolar. On February 6, 2003, the Energy Division circulated a draft resolution proposing denial of the PPA based on the arguments raised by TURN/NRDC. On May 28, the Energy Division circulated a draft alternate resolution of Commissioner Wood which would approve the PPA but called for full public disclosure of pricing information as requested by TURN. TURN/NRDC provided extensive comments in support of the draft resolution and strongly urged rejection of the Wood alternate. On December 4, 2003, the Commission voted to approve the Wood Alternate by a vote of 3-1. Although the

Commission approved the PPA over TURN's objections, TURN's participation resulted in the issuance of a draft resolution that is supported and led to the full public disclosure of information about the PPA that would otherwise have remained confidential.

In a similar vein, PG&E filed an advice letter (AL 2423.E) on September 18, 2003 requesting Commission review and approval of several renewable energy contracts resulting from bilateral negotiations. Although generally supporting approval of these contracts, TURN filed a protest urging clarifications to the treatment of output from the facilities, changes to the terms of the agreements, and public disclosure of non-price contract information. On October 16 the Commission adopted Resolution E-3853 which approved PG&E's contracts. The resolution recognized the validity of many concerns raised by TURN, agreed with TURN's clarification that deliveries from these facilities represents "incremental" output that counts towards the annual procurement target and adopted TURN's recommendation to make certain non-price information public, but it did not make all of TURN's requested changes and clarifications. TURN cites the disclosures and clarification as evidence of its substantial contributions to Resolution E-3853.

We agree with TURN that it made substantial contributions to D.03-10-058 and D.03-12-065, and to Resolutions E-3814 and E-3853. While not all of its recommendations were adopted in the resolutions, it had a noticeable impact on each resolution, particularly in the area of public disclosure of information.

TURN's request for compensation also includes its participation in the PRGs authorized by D.02-08-071. TURN staff or consultants attended the vast majority of PRG meetings, participated fully, and submitted both written and oral comments on specific utility proposals. Specific areas of contribution TURN

identifies are providing advice to SCE, SDG&E, and PG&E on resource solicitations conducted during 2003, reviewing the status of the customer risk tolerance indicators adopted by the Commission in D.02-10-062 and clarified in D.02-12-074, and reviewing proposed electric and gas hedging strategies, transactions and supply plans.

In D.02-10-062, the Commission stated that participation in the PRG process by non-market participants who are eligible to request intervenor compensation should be fully compensated because their active participation makes a significant contribution to the proceeding.² TURN has been an active and productive member of the PRG process and has met the criteria for full compensation for its participation.

In summary, TURN has made a substantial contribution to each decision and resolution that it includes in its request, and it is also eligible for compensation for its participation in the PRG process.

B. NRDC's Substantial Contribution

NRDC seeks compensation for its contributions to D.02-10-062, D.03-06-067, D.03-06-071, D.03-12-062, and D.04-01-050, and for its participation in the PRG process. In its work in the procurement proceeding, NRDC's focus was on environmental issues.

For its substantial contribution to D.02-12-062, NRDC cites the role it played in having the Commission recognize the importance of investments in energy efficiency and renewable resources. In December 2001 NRDC provided extensive comments outlining the crucial components of comprehensive

² D.02-10-062, p.4.

portfolio management, detailing state policy requirements with regard to energy efficiency and renewables, and arguing that the procurement proceeding needed to consider investments in energy efficiency beyond the limited public goods charge. The subsequent Assigned Commissioner's Scoping Memo, issued April 2, 2002, cited NRDC's comments in explicitly directing the utilities to consider demand-side options side-by-side with other options in their procurement plans, and cited the statutory guidance (Pub. Util. Code § 701.1) that NRDC had noted. NRDC raised similar concerns in its comments on the proposed and draft decision, and in D.02-10-062 the Commission directed the utilities to "consider investment in all cost-effective energy efficiency, regardless of the limitations of funding through the public goods charge (PGC) mechanism." (D.02-10-062, p.27). NRDC made a substantial contribution to the scoping memo and final decision in advocating that energy efficiency be given priority in each utility's procurement plans.

In D.03-06-067, the Commission partially granted a SCE petition to modify D.02-12-074. NRDC and TURN filed joint comments on SCE's petition and the Commission adopted their recommendations in all areas, particularly the "middle ground" that NRDC/TURN offered on SCE's request to eliminate provisions in D.02-12-074 that required a showing that bilateral transactions represent a reasonable approximation of what a competitive market would produce.

(D.03-06-067, pp. 19-20). NRDC, in its joint comments with TURN, made a substantial contribution to D.03-06-067.

In the Renewable Portfolio Standard (RPS) phase of this proceeding, NRDC did not actively participate in the evidentiary hearings but did file comments in support of the ALJ's proposed decision. NRDC is mentioned in the

final decision as being one of the parties supporting some of the Commission's adopted positions.

NRDC was an active party in the evidentiary hearings, sponsoring testimony and filing briefs that led to D.03-12-062 and D.04-01-050. NRDC identifies the following areas of substantial contribution:

- NRDC recommended that the Commission approve the utilities' proposed budgets for energy efficiency investments over the next five years, which the Commission adopted in part by authorizing the utilities' proposals for 2004-05.
- NRDC's witness demonstrated that the utilities' plans to increase investments in energy efficiency were "a great start to capture California's untapped efficiency resource potential" but that additional cost-effective resources would remain. Both D.03-12-062 and D.04-01-050 agreed with NRDC's assessment that the utilities had not captured all the energy efficiency potential in their plans and that further efforts would be needed in the future.
- NRDC urged the Commission to establish a cost-recovery mechanism for the utilities' procurement investments in energy efficiency and, in accord with its recommendation, D.03-12-067 authorized a new cost-recovery mechanism for procurement of energy efficiency investments.
- In both decisions the Commission adopted many of NRDC's recommendations to ensure the procurement and energy efficiency rulemakings are closely coordinated.
- In comments on the proposed and two alternate decisions issued in December, NRDC successfully urged the Commission to modify an unclear and potentially inconsistent conclusion of law in D.04-01-050 regarding a non-utility role in procurement-related energy efficiency programs.

- NRDC's testimony addressed some of the issues in the utilities' long-term plans that related to the RPS phase of the proceeding. D.04-01-050 adopted two of these recommendations.
- NRDC urged the Commission to set a schedule to create a comprehensive performance-based incentive mechanism, and the Commission's final decision was consistent with this recommendation.
- NRDC provided extensive testimony on the financial risk posed by resources that emit carbon dioxide, associated with the potential future regulation of greenhouse gases. The Commission did not adopt NRDC's specific recommendation but did refer the issue to the energy efficiency proceeding.

On the above issues, NRDC made a substantial contribution to the Commission's decisions. On issues where NRDC's recommendations paralleled those of other parties, NRDC's participation materially contributed to the development of a fuller record that assisted the Commission in making its decision. In the areas where the Commission did not adopt NRDC's specific recommendations, we benefited from its analysis and discussion and, in some cases, referred the matter to other proceedings for further development.

In summary, we find that NRDC made a substantial contribution to each decision that it cites and in its participation in the PRG process.

V. Reasonableness of Requested Compensation

After we have determined the scope of a customer's substantial contribution, we look at whether the compensation requested is reasonable.

The components of this request must constitute reasonable fees and costs of the customer's preparation for and participation in a proceeding that resulted in a substantial contribution. Thus, only those fees and costs associated with the

customer's work that the Commission concludes made a substantial contribution are reasonable and eligible for compensation.

To assist us in determining the reasonableness of the requested compensation, D.98-04-059 directed customers to demonstrate productivity by assigning a reasonable dollar value to the benefits of their participation to ratepayers. The costs of a customer's participation should bear a reasonable relationship to the benefits realized through their participation. This showing assists us in determining the overall reasonableness of the request.

A. TURN's Request

TURN requests \$285,191.30 for its participation in this proceeding, as follows:

Attorney Fees

Matthew Freedman	245.50 hours x \$250.00 =	\$61,375.00
	13.50 hours x \$125.00 =	1,687.50
Michel P. Florio	118.00 hours x \$435.00 =	51,330.00
Daniel Edington	119.95 hours x \$190.00 =	22,790.50
Marcel Hawiger	17.75 hours x \$250.00 =	4,437.50
Robert Finkelstein	1.00 hours x \$365.00 =	365.00
	2.00 hours x \$182.50 =	365.00
Subtotal =		\$142,350.50

Expert Witness Costs

Woodruff Expert Services

Kevin Woodruff	608.50 hours x \$200.00 =	\$121,700.00
Expenses		1,881.57
Subtotal =		\$123,581.57

Strategy Integration, Inc.

Eric Woychik	104.8 hours x \$170.00 =	\$17,816.00
Expenses		= 0.00
Subtotal =		\$17,816.00

Other Reasonable Costs

Photocopying Expense	=	\$1,303.80
Postage Costs	=	7.92
Facsimile/Phone/FedEx	=	73.36
Legal Research (LEXIS)	=	58.13
Subtotal	=	<u>\$ 1,443.21</u>
TOTAL	=	<u>\$285,191.30</u>

Because the procurement proceeding did not establish specific rates or involve disputes over particular dollar amounts, TURN does not identify precise monetary benefits to ratepayers. Rather, it states that the establishment of balanced procurement policies have a direct and lasting impact on customer rates. As the energy crisis demonstrates, procurement costs can be a major driver of utility outlays and retail rates. Therefore, appropriate procurement policies and prudent planning practices will be essential to maintaining both low and stable rates. We find that the amount TURN requests in compensation is small in comparison to the amount each utility spends on electric procurement and the dollar benefits that will accrue to ratepayers from prudent procurement planning and a diverse resource portfolio; thus, TURN's work was productive.

TURN documented its claimed hours by presenting a daily breakdown of the hours of its attorneys, accompanied by a brief description of each activity. The hourly breakdown reasonably supports the claim for total hours. We have reviewed the detail that TURN has included in its request and find the time devoted to specific tasks and issues to reflect an efficient use of its personnel and resources and to be, in all respects, reasonable. We also note that TURN states that no costs or expenses sought in this request were recovered from any grant or

other outside source. Since we found that TURN's efforts made a substantial contribution to the delineated decisions, we need not exclude from TURN's award compensation for certain issues.

Finally, in determining compensation, we take into consideration the market rates for similar services from comparably qualified persons. For 2003 attorney fees in this proceeding, TURN is requesting a rate of \$250 an hour for Matthew Freedman, Daniel Edington, and existing rates for Michel Peter Florio, Robert Finkelstein and Marcel Hawiger. For 2003 expert witness fees, TURN is requesting the existing rate of \$200 an hour for Kevin Woodruff of Woodruff Expert Services and a new rate of \$170 an hour for Eric Woychik of Strategy Integration.

In D.04-02-017 the Commission approved a rate of \$225 for Freedman's 2003 work. After that decision was issued, TURN filed a request seeking a higher 2003 rate for work performed in a different proceeding. D.04-05-050 found that, based on the level of responsibility Freedman assumed in that proceeding, the quality of his work, his relevant past work experience, and the *Of Counsel* survey, a mid-year 2003 adjustment to the \$250 rate was reasonable.

We find that TURN has made a strong showing that an hourly rate of \$250 an hour is reasonable for Freedman's work in 2003 in this proceeding for the same reasons. He performed in a complex Commission proceeding in an exceptional manner. He has training and experience that is comparable to Itzel Berrio and Enrique Gallardo of Greenlining/Latino Issues Forum, who were awarded an hourly rate of \$265 for 2002 work in D.03-10-062. Therefore, we find TURN's request for Freedman to be reasonable.

TURN requests an hourly rate of \$250 for Hawiger's 2003 work. TURN requests an hourly rate of \$190 for Edington's 2003 work. In D.04-05-048 we

approved the requested rates, and we rely on them here for Hawiger and Edington.

TURN requests an hourly rate of \$385 for work Florio performed in 2002, and \$435 for work he performed in 2003. TURN requests a rate of \$365 for the limited work Finkelstein performed here. These are rates that the Commission has previously approved for each attorney, and we find it reasonable to use the same rate here. TURN requests an hourly rate of \$200 for work Woodruff performed in 2003. This rate was adopted in D.04-05-050 and we utilize it here.

TURN requests a new 2003 expert witness rate of \$170 for Woychik. Woychik obtained a B.S. degree in Environmental Planning and Policy Analysis in 1980, attended law school from 1981-82, and obtained a Masters degree in Economics in 1991. He has 20 years of energy industry experience, including work at this Commission and the California Energy Commission. TURN cites our adopted hourly rate of \$160 for Woychik's 2002 work and comparable approved rates for William Marcus. We find that \$170 an hour for 2003 work here is reasonable for Woychik.

Finally, TURN also seeks compensation at half the usual hourly rate for the 15.5 hours devoted to the preparation of this compensation request and \$1,443 for the costs of photocopying, postage, phone, and legal research. We find these amounts reasonable.

B. NRDC's Request

NRDC requests \$37,065.00 for its participation in this proceeding, as follows:

NRDC Staff	Hours	Rate	Request
Devra Bachrach	183.75	\$100/hour	\$18,375
Sheryl Carter (2001 and 2002)	29.00	\$135/hour	\$3,915
Sheryl Carter (2003 and 2004)	98.50	\$150/hour	\$14,775
TOTAL AMOUNT OF REQUEST			\$37,065

NRDC states that its primary contribution to this proceeding has been its focus on incorporating additional energy efficiency investments in the utilities' resource portfolios. It estimates that the \$245 million in investments authorized by the Commission for 2004 and 2005 are likely to yield net benefits to consumers on the order of \$750 million. NRDC's participation has been productive, as that term is used in Pub. Util. Code § 1801.3.

NRDC documents its claimed hours by presenting a daily breakdown of the hours of its energy program staff, accompanied by a brief description of their activities. The hourly breakdown reasonably supports the claim for total hours. We have reviewed the detail that NRDC has included in its request and find the time devoted to specific tasks and issues to reflect an efficient use of its personnel and resources and to be reasonable.

NRDC requests an hourly rate of \$100 for Devra Bacharach and an hourly rate of \$135 for work performed by Sheryl Carter in 2001-02 and \$150 for work she performed in 2003. These rates have previously been approved by the Commission and are reasonable for use here.

VI. Award

As set forth in the tables above, we award TURN \$285,191.30 and NRDC \$37,065.00.

Consistent with previous Commission decisions, we will order that interest be paid on the award amount (at the rate earned on prime, three-month commercial paper, as reported in Federal Reserve Statistical Release H.15) commencing the 75th day after TURN and NRDC filed its compensation request and continuing until full payment of the award is made. We direct all three respondent utilities (PG&E, SCE, and SDG&E) to share proportionally in the payment, based on their percentage of 2003 total electric revenues.

We remind all intervenors that the Commission staff may audit their records related to this award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation.

VII. Waiver of Comment Period

This is an intervenor compensation matter. Accordingly, as provided by Rule 77.7(f)(6) of our Rules of Practice and Procedure, we waive the otherwise applicable 30-day comment period for this decision.

VIII. Assignment of Proceeding

Michael R. Peevey is the Assigned Commissioner. Christine M. Walwyn and Peter V. Allen are the assigned ALJs in this proceeding.

Findings of Fact

1. TURN and NRDC represent consumers, customers, or subscribers of PG&E, Edison, and SDG&E, all utilities regulated by the Commission.
2. TURN and NRDC timely filed their NOIs to claim compensation on February 5, 2002 and February 7, 2002, respectively, and their requests for compensation on March 26, 2004.
3. The individual economic interests of TURN and NRDC are small in comparison to the costs incurred in effectively participating in these proceedings.

4. TURN made a substantial contribution to D.04-01-050, D.03-12-065, D.03-12-062, D.03-10-058, and Resolutions E-3814 and E-3853. NRDC made a substantial contribution to D.04-01-050, D.03-12-062, D.03-06-071, D.03-06-067 and D.02-10-062. Both TURN and NRDC participated in the PRGs.

5. TURN and NRDC requested hourly rates for attorneys and experts that are reasonable when compared to the market rates for persons with similar training and experience.

6. The total of these reasonable fees is \$285,191.30 for TURN and \$37,065.00 for NRDC.

Conclusion of Law

TURN and NRDC have fulfilled the requirements of Pub. Util. Code §§ 1801-1812, which govern awards of intervenor compensation, and they are entitled to intervenor compensation for their respective claimed fees and expenses incurred in making substantial contributions to D.04-01-050, D.03-12-065, D.03-12-062, D.03-10-058, D.03-06-071, D.03-06.067, D.02-10-062, and to Resolutions E-3814 and E-3853, and in participating in the PRGs.

O R D E R

IT IS ORDERED that:

1. The Utility Reform Network (TURN) is awarded \$285,191.30 and The Natural Resources Defense Council (NRDC) is awarded \$37,065.00 for their substantial contributions to the procurement decisions and resolutions in the above findings and conclusions, and their participation in the procurement review groups of each respondent utility.

2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company (PG&E), Southern California Edison Company (Edison), and

San Diego Gas & Electric Company (SDG&E) shall each pay TURN and NRDC the respective utility's share of TURN's and NRDC's total award. The shares shall be computed on the basis of each utility's percentage of the total electric revenues in 2003 (the year most costs were incurred) for all three utilities.

3. PG&E, Edison and SDG&E shall also pay interest on the award beginning June 9, 2004 at the rate earned on prime, three-month commercial paper as reported in Federal Reserve Statistical Release H.15, and continuing until full payment is made.

4. The comment period for today's decision is waived.

This order is effective today.

Dated _____, at San Francisco, California.

Compensation Decision Summary Decision

Compensation Decision:	
Contribution Decision(s):	D0401050 D0312062 D0306071 D0306067 D0210062 and Procurement Review Group Participation
Proceeding(s):	R0110024
Author:	ALJ Walwyn
Payer(s):	Pacific Gas and Electric Company, Southern California Edison and San Diego Gas and Electric Company.

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
TURN	3/26/04	\$285,191	\$285,191.30	No	
NRDC	3/26/04	\$37,065	\$37,065.00	No	

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Matt	Freedman	Attorney	The Utility Reform Network	\$250	2003	\$250
Michel	Florio	Attorney	The Utility Reform Network	\$2,385	2002	\$385
Michel	Florio		The Utility Reform Network	\$435	2003	\$435
Daniel	Edington	Attorney	The Utility Reform Network	\$190	2003	\$190
Marcel	Hawiger	Attorney	The Utility Reform Network	\$250	2003	\$250
Kevin	Woodruff	Economist Policy Expert	The Utility Reform Network	\$200	2003	\$200
Eric	Woychik	Economist	The Utility Reform Network	\$170	2003	\$170
Devra	Bachrach	Policy Expert	Natural Resources Defense Council	\$100	2003	\$100
Sheryl	Carter	Policy Expert	Natural Resources Defense Council	\$135	2001-2	\$135
Sheryl	Carter	Policy Expert	Natural Resources Defense Council	\$150	2003	\$150